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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,392	12/19/2000	Paul Michael Brennan	3650-005US	2571
26123 7590 05/30/2007 BORDEN LADNER GERVAIS LLP WORLD EXCHANGE PLAZA 100 QUEEN STREET SUITE 1100 OTTAWA, ON K1P 1J9 CANADA			EXAMINER STORM, DONALD L	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/739,392

Applicant(s)

BRENNAN ET AL.

Examiner

Donald L. Storm

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-5,16-18 and 21 is/are allowed.
- 6) ☒ Claim(s) 6-14,19,20,22 and 23 is/are rejected.
- 7) ☒ Claim(s) 15 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Allowable Subject Matter

2. Claims 1, 3-5, 16-18, and 21 are allowed.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). The specification should clearly teach the following claimed subject matter: user-defined data elements.

Regarding claims 6 and 11, if the Applicant is going to maintain the terminology “user-defined data elements”, the Examiner suggests that the Applicant ensure that the definition and antecedence in the specification clearly establish the meaning of this new terminology so that the scope of the claimed invention is not uncertain. The specification, as filed, at page 8, line 32-page 9, line 9, might describe that subject matter of the claims; however, the Examiner does not find a clear association of user-defined data elements with terminology that is used anywhere in the specification. While the Applicant is not limited to the nomenclature used in the application as filed, the Applicant should consider that the use of a variety of terms for the same thing introduces confusion. If upon consideration, the Applicant determines to introduce new terminology into the disclosure, appropriate amendment of the specification should be made that relates new terminology that is introduced by amendment of the claims to original terminology. This is necessary in order to insure certainty in construing the claim language. No new matter may be added. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

Claim Informalities

4. Claim 15 is objected to using the same rationale as in the prior Office action (mailed January 29, 2007), because no selection step was previously said.
5. Claim 23 is objected to under 37 CFR 1.75(a) because the meaning of the phrase "A method according to claim 11" (line 1) needs clarification. Because no method was previously recited for claim 11, it may be unclear as to what element this phrase refers. To further timely prosecution and evaluate prior art, the Examiner has interpreted this phrase as --The system as claimed in claim 11-- because this language is similar to claim 20. The language of claims 12-13 can also be used.

Claim Rejections - 35 USC § 102

Ittycheriah

6. Claims 6, 7, 9, 10, 11, 12, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Ittycheriah [US Patent 5,924,070], already of record.
7. Regarding claim 6, Ittycheriah [at abstract] describes a method of providing a customized speech based user interface to an application system by describing the content and functionality of the recited limitations recognizable as a whole to one versed in the art as the following terminology:
 - receiving an access request from a user [at column 4, lines 12-16, as logon a user identity to access control would grant access];
 - retrieving a customized profile for the user from a database, the profile comprising user-defined functions made available to the user, said profile previously customized by said user [at

column 6, lines 15-36, as access a group of commands presented to the user by display of the user's page in database to update a previously enrolled command of the user's page];

retrieving data elements associated with said profile [at column 5, line 50-column 6, line 10, as names (recognizable commands) in fields of the customized commands for each user retrieved from the database in a "page" or directory of the user];

the data elements are user-defend [at column 6, lines 40-49, as a representation of the name that the user says for enrolment is entered in the field];

presenting said functions in accordance with said profile [at column 6, lines 14-31, as display the user's page of previously enrolled commands to the user];

presenting said data elements in accordance with said profile [at column 5, line 66-column 6, line 31, as display of the user's page in the database and the page contains enrolled entries depicted as names in fields, etc. a representation of the name that the user says for enrolment being entered in a field of the command];

the presentations are via said customized speech based user interface [at column 6, lines 14-56, as access the user's page upon an enroll command recognized by voice command to display the user's page, with prompt by voice synthesizer to enter data by voice or invoke editing or review of the enrolled commands].

8. Claims 7 and 9-10 are rejected using the same rationale as in the prior Office action (mailed January 29, 2007).

9. Regarding claim 11, Ittycheriah [at abstract] describes a communication system by describing the content and functionality of the recited limitations recognizable as a whole to one versed in the art as the following terminology:

an input device [at column 3, line 49, as microphone];

an application system [at column 3, lines 58-62, as IVR];

a profile database comprising a plurality of profiles of user-defined functions of a speech based user interface for use with said application system [at column 5, lines 50-65, as the database containing a "page" or directory of customized commands for each user to decode the command by speech recognizer for voice dialing];

a profile database comprising a plurality of profiles of data elements associated with the profiles for use with said application system [at column 5, line 50-column 6, line 5, as the database containing a "page" or directory of names (recognizable commands) in fields of the customized commands for each user to carry out the command by speech recognizer for voice dialing];

the data element is user-defined [at column 6, lines 40-49, as a representation of the name that the user says for enrolment is entered in the field];

customization means permitting customization of said user-defined functions [at column 6, lines 25-36, as the enrollment procedure/process and updating process to access a group of commands presented to the user by display of the user's page in database to update a previously enrolled command or a new enrollment];

customization means permitting the customization of said user-defined data elements [at column 6, lines 25-49, as the enrollment procedure/process and updating process to access a group of commands presented to the user by display of the user's page in the database to update a previously enrolled command or a new enrollment with a representation of the name that the user says for enrolment being entered in a field of the command];

a speech user interface for presentation of said plurality of profiles (or other) [at column 6, lines 14-56, as voice command to present the user's page of previously enrolled commands to the user and prompt by voice synthesizer to enter data by voice to access the user's page upon an enroll command recognized by voice command to present the user's page of previously enrolled

commands to the user and at column 7, lines 6-13, as the system may also be used to retrieve the page for the user <name> (as distinct from the current user));

an audio output device [at column 6, line 41, as a voice synthesizer].

10. Claims 12 and 20 are rejected using the same rationale as in the prior Office action (mailed January 29, 2007).

Claim Rejections - 35 USC § 103

Ittycheriah and Beyda

11. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ittycheriah [US Patent 5,924,070] in view of Beyda et al. [US Patent 6,487,277] using the same rationale as in the prior Office action (mailed January 29, 2007).

Ittycheriah and Braman

12. Claims 8, 13, 14, 19, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ittycheriah [US Patent 5,924,070] in view of Braman et al. [International Publication WO 99/14928], already of record.

13. Claims 8, 13, and 19 are rejected using the same rationale as in the prior Office action (mailed January 29, 2007).

14. Regarding claim 14, Braman also describes:

the functions comprise messaging system functions [at page 6, lines 10-14, as the speaker dependent directory name "MAIL" and the recorded string for access to a voice mail system and play messages].

15. Regarding claim 22, Ittycheriah describes the included claim elements by dependency as indicated elsewhere in this Office action. Ittycheriah also describes:

accessing at least one element external to said application system [at column 3, lines 18-43, as the customized libraries of commands can be used to route outgoing calls to external callers].

At column 4, lines 27-44, Ittycheriah recognizes that the customized command and applications library can select and access any complex commands and applications that are available to the user, but is not limited to the voice dialing application that is described. However, Ittycheriah does not discuss commands to obtain information from other applications in detail. In particular, Ittycheriah does not explicitly describe obtaining at least one user-defined data element by accessing at least one element external to said application system.

Like Ittycheriah, Braman [at pages 3-5] provides a customizable, user, dialing entry system with speech recognition. Braman also describes:

obtain at least one data element by accessing at least one element external to said application system [at page 7 lines 7-12, as play a caller's voice mail messages by accessing the service through causing the phone number and DTMF tones necessary to connect with the information service];

the data elements to be obtained are user-defined [at page 6, line 14, item 1 menu selection-line 16, as the caller completed the necessary entries for the selection: play new messages].

As indicated, Braman shows that a customizable, user, dialing entry system with speech recognition to create a function that provides information services for elements external to the application system was known to artisans at the time of invention. Since Braman [at page 7, lines 7-10] also points out that a customized user command has the advantage that the command can be executed to retrieve and play the caller's voice mail messages without requiring the caller to enter

the phone number and respond to the mail system's prompts, it would have been obvious to one of ordinary skill in the art of controlling access to information services at the time of invention to include the concepts described by Braman, at least including a customizable, user, dialing entry system by which the user selects to obtain voice mail messages as one of the other applications as Ittycheriah suggests, because such a command can be executed to play the user's voice mail messages without requiring the caller to enter the phone number and respond to the mail system's prompts to access and play the voice mail.

16. Regarding claim 23, Ittycheriah describes the included claim elements by dependency as indicated elsewhere in this Office action, if the Examiner's assumptions about the included subject matter of the claim are correct. The claim sets forth additional limitations similar to limitations set forth in claim 22. Ittycheriah and Braman describe and make obvious the additional limitations as indicated there.

Response to Arguments

17. The prior Office action, mailed January 29, 2007, objects to the claims, and rejects claims under 35 USC § 102 and § 103, citing Ittycheriah. The Applicant's arguments and changes in RESPONSE AND AMENDMENT, filed April 26, 2007, have been fully considered with the following results.

18. With respect to rejection of claims 1, 3-5, and 15-18 under 35 USC § 102 and § 103, citing Ittycheriah alone and in combination, the changes entered by amendment include specifying information to be presented in a status summary.

The reference Ittycheriah does not explicitly describe that limitation. The whole structure and interaction expressed by the combination of all limitations is not made obvious by comparison

to the prior art of record for the whole invention of these claims, particularly with the status summary being associated with a profile of user-defined functions that is selected for customization. In the reference Ittycheriah, the user specifies information presented in a status summary. Accordingly, the rejections are removed. The Applicant's assertions with respect to the references have been considered, but they are moot in view of the new claim element.

19. With respect to rejection of claims 6-10 under 35 USC § 102 and § 103, citing Ittycheriah alone and with Beyda, the Applicant's arguments appear to be as follows:

a. The Applicant's argument appears to be that Ittycheriah's "line for editing" does not meet the claim limitation of "data element". The Examiner will assume that the Applicant's argument also applies to Ittycheriah's "field" and "data" in the field because these items were also cited by the Examiner in the explanation of how Ittycheriah describes the claim limitation of "providing access to data elements presented in said functions". This argument is not persuasive because at least Ittycheriah's "fields" are data elements of the function. The Applicant remarks that discussion of the data elements can be found at [0028-30]. The specification of record in the Office file of this application, at least at page 8, line 32-page 9, line 9, discusses an internal element may relate to data internal to the personalized functions, the rules, the summary, the application system, and the customized speech based user interface. As one example, Ittycheriah's "name" field data relates to the enrolled functions of a user's customized page.

b. The Applicant's argument appears to be that Ittycheriah cannot disclose presenting both user-defined functions and user-defined data elements because Ittycheriah only presents Ittycheriah's enrolled commands. This argument is not persuasive because presenting the enrolled commands does not prevent the display of Ittycheriah's interface from presenting the "lines for editing", the "fields" for customization, and the values previously enrolled in the field of the lines, because Ittycheriah [at column 5, line 66-column 6, line 39] describes displaying the page and that

the page contains enrolled entries depicted as lines, names, fields, commands, numbers, etc. See Fig. 2, items 150-156.

c. The Applicant's argument appears to be that a teaching or suggestion to combine the teachings of Ittycheriah and Beyda must appear in one or all of the references. This argument is not persuasive because the question is not simply whether either cited reference suggests within its four corners using the other reference's disclosed subject matter. The test for obviousness is whether the combined teachings of the references would have suggested to one of ordinary skill in the art to make a structure corresponding to what is claimed, and all teachings in the prior art must be considered to the extent that they are in analogous arts or solve similar problems. For these claims, it is then proper to rely to some extent on knowledge of the person of ordinary skill in the art of interfacing IVR systems to PBX and PSTN, to complement that which the references explicitly disclose and to recognize the benefits of DTMF-capable PBX and PSTN interfaces would be provided to Ittycheriah's command enrollment interface without any specific hint or suggestion in a particular reference.

The Applicant's arguments have been fully considered but they are not persuasive. Accordingly, the rejections are maintained.

20. With respect to rejection of claims 8, 11-14 and 19-20 under 35 USC § 102 and § 103, citing Ittycheriah alone and with Braman, the Applicant's arguments appear to be as follows:

a. The Applicant's argument appears to be that the claimed speech user interface is not used for presenting both the plurality of profiles and user-defined data elements. This argument is not persuasive because the claim requires the user interface for presenting one of the plurality profiles and the user-define data elements. Ittycheriah's speech user interface meets the limitation by presenting the plurality of profiles.

b. For claim 8, the Applicant's argument appears to be that a teaching or suggestion to combine the teachings of Ittycheriah and Braman must appear in one or all of the references. This argument is not persuasive because the question is not simply whether either cited reference suggests within its four corners using the other reference's disclosed subject matter. The test for obviousness is whether the combined teachings of the references would have suggested to one of ordinary skill in the art to make a structure corresponding to what is claimed, and all teachings in the prior art must be considered to the extent that they are in analogous arts or solve similar problems. For these claims, it is then proper to rely to some extent on knowledge of the person of ordinary skill in the art of interfacing IVR systems to PBX and PSTN, to complement that which the references explicitly disclose and to recognize the benefits of DTMF-capable PBX and PSTN interfaces would be provided to Ittycheriah's command enrollment interface without any specific hint or suggestion in a particular reference. Because the question is not simply whether either cited reference suggests within its four corners using the other reference's disclosed subject matter, such an argument is also not persuasive for claims 13, 14, and 19 that have also been rejected as obvious.

c. For claims 13, 14, and 19, the Applicant's argument also appears to be that a teaching or suggestion to combine the teachings of Ittycheriah and Braman must appear in one or all of the references. This argument is not persuasive because there is no requirement that a motivation to make the particular combination be expressly articulated or suggested by individual references. The record of the rejections of these claims in the prior Office action include sufficient evidence, as pointed out by specific citations to Braman, to motivate or suggest combining the teachings of Braman with the teachings of Ittycheriah to provide the benefits that Braman describes for each of the additions or modifications.

The Applicant's arguments have been fully considered but they are not persuasive. Accordingly, the rejections are maintained.

Conclusion

21. The following references here made of record are considered pertinent to applicant's disclosure:

Johnson [US Patent 5,835,571] allows a user to record interfacing to and navigating an automated telephone service and save the recording with additional interface data coordinated with the service for later recall.

22. Any response to this action may be mailed to:

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(571) 273-8300, (for both formal communications intended for entry and for informal or draft communications, but please label informal fax as "INFORMAL" or "DRAFT")

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23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L. Storm, of Division 2626, whose telephone number is (571) 272-7614. The examiner can normally be reached on weekdays between 7:00 AM and 3:30 PM Eastern Time. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571) 272-7602.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Inquiries regarding the status of submissions relating to an application or questions on the Private PAIR system should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100 between the hours of 6 a.m. and midnight Monday through Friday EST, or by e-mail at: ebc@uspto.gov. For general information about the PAIR system, see <http://pair-direct.uspto.gov>. If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

May 25, 2007

/Donald L. Storm/

Primary Patent Examiner
Division 2626